

Division 3. Air Resources Board

---

Chapter 9. Off-Road Vehicles and Engines Pollution Control Devices

---

Article 6. Portable Fuel Containers and Spouts

**§ 2467.6. Variances.**

(a) Any person or manufacturer who cannot comply with the requirements set forth in Section 2467.2, due to extraordinary reasons beyond the person's reasonable control, may apply in writing to the Executive Officer for a variance. The variance application must set forth:

- (1) the specific grounds upon which the variance is sought;
- (2) the proposed date(s) by which compliance with the provisions of Section 2467.2 will be achieved; and
- (3) a compliance report reasonably detailing the method(s) by which compliance will be achieved.

(b) Upon receipt of a variance application containing the information required in subsection (a), the Executive Officer shall hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements in Section 2467.2 is necessary and will be permitted. A hearing will be initiated no later than 75 days after receipt of a variance application. Notice of the time and place of the hearing must be sent to the applicant by certified mail not less than 30 days before to the hearing. Notice of the hearing must also be submitted for publication in the California Regulatory Notice Register and sent to every person who requests such a notice, not less than 30 days before the hearing. The notice must state that the parties may, but not need to be, represented by counsel at the hearing. At least 30 days before the hearing, the variance application must be made available to the public for inspection. Interested members of the public must be allowed a reasonable opportunity to testify at the hearing and their testimony must be considered.

(c) No variance may be granted unless all of the following findings are made:

(1) that, due to reasons beyond the reasonable control of the applicant, required compliance with Section 2467.2 would result in extraordinary economic hardship;

(2) that the public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions of air contaminants that would result from issuing the variance; and

(3) that the compliance report proposed by the applicant can reasonably be implemented, and will achieve compliance as expeditiously as possible.

(d) Any variance order shall specify a final compliance date by which the requirements of Section 2467.2 will be achieved. Any variance order shall contain a condition that specifies increments of progress necessary to assure timely compliance, and such other conditions that the Executive Officer, in consideration of the testimony received at the hearing, finds necessary to carry out the purposes of Division 26 of the Health and Safety Code.

(e) A variance shall cease to be effective upon failure of the party to whom the variance was granted to comply with any term or condition of the variance.

(f) Upon the application of any person, the Executive Officer may review, and for good cause, modify or revoke a variance from requirements of Section 2467.2 after holding a public hearing in accordance with the provisions of subsection (b).

NOTE: Authority cited: Sections 39600, 39601, 43013, 43018 and 43101, Health and Safety Code; and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975). Reference: Sections 39000, 39001, 39003, 39500, 39515, 39516, 41511, 43000, 43013, 43016, 43017 and 43018, Health and Safety Code; and *Western Oil and Gas Ass'n. V. Orange County Pollution Control District*, 14 Cal.3d 411, 121 Cal.Rptr. 249 (1975).

REFERENCE